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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,839	05/04/2001	John Cort Severns	8122	2262

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EXAMINER

MRUK, BRIAN P

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/849,839

Applicant(s)

SEVERNS ET AL.

Examiner

Brian P Mruk

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 21-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) g.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 1751

### **DETAILED ACTION**

1. This Office action is in response to Applicant's amendment filed August 12, 2003. Applicant has cancelled claims 1-20. New claims 21-38 have been added. Currently, claims 21-38 remain pending in the application.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office action, Paper No. 7.
3. The examiner makes of record that all previous objections and rejections of instant claims 1-20 found in the last Office Action, Paper No. 7, are withdrawn in view of applicant's amendments. Specifically, applicant has cancelled claims 1-20.
4. The examiner makes of record that the second reference listed in the Supplemental IDS (Paper No. 8) is actually US-6,310,029 and not US-6,310,019.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 1751

6. Claims 24, 29, 32, 33 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. The phrase "less than about" in claim 24 renders the claim vague and indefinite. The phrase ""less than about" renders the claim indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the phrase ""less than about". It is unclear what values are encompassed by the phrase ""less than about". The examiner suggests that this phrase should be changed to either "less than" or "about". "Claims reciting ""less than about" are invalid for indefiniteness where there was close prior art and there was nothing in the specification, prosecution history, or the prior art to provide any indication as to what range of specific activity is covered by the term about." See MPEP 2173.05(b). Appropriate correction and/or clarification is required.

8. The phrase "more than about" in claims 29 and 32 renders the claim vague and indefinite. The phrase "more than about" renders the claim indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the phrase "more than about". It is unclear what values are encompassed by the phrase "more than about". The examiner suggests that this phrase should be changed to either "more than" or "about". "Claims reciting "more than about" are invalid for indefiniteness where there was close prior art and there was nothing in the specification, prosecution history, or the prior art to provide any indication as to what range of specific activity is

Art Unit: 1751

covered by the term about." See MPEP 2173.05(b). Appropriate correction and/or clarification is required.

9. The phrase "at least about" in claim 33 renders the claim vague and indefinite. The phrase "at least about" renders the claim indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the phrase "at least about". It is unclear what values are encompassed by the phrase "at least about". The examiner suggests that this phrase should be changed to either "at least" or "about". "Claims reciting "at least about" are invalid for indefiniteness where there was close prior art and there was nothing in the specification, prosecution history, or the prior art to provide any indication as to what range of specific activity is covered by the term about." See MPEP 2173.05(b). Appropriate correction and/or clarification is required.

10. The examiner notes that instant claim 35 is not completed. Specifically, the examiner notes that the claim ends with "no purposively added", which renders the claim vague and indefinite. For examination purposes, the examiner will treat claim 35 as comprising no purposively added water.

### ***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 1751

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 21-25, 28-35 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Kasprzak, U.S. Patent No. 4,685,930.

Kasprzak, U.S. Patent No. 4,685,930, discloses a method for cleaning textiles with a cleaning composition comprising contacting textiles with a cyclic siloxane, such as octamethylcyclotetrasiloxane and decamethylcyclopentasiloxane (see abstract & col. 3, lines 22-39), per the requirements of instant claims 1-4, 6-10, 12-18 and 20. It is further taught by Kasprzak that the cleaning composition is applied in a conventional home laundry process (see col. 5, lines 27-34), per the requirements of the instant invention. Specifically, note Example 10(b), which discloses a method for cleaning textiles in a home laundry machine with a composition comprising 100% by weight of decamethylcyclopentasiloxane, per the requirements of instant claims 1-4, 6-10, 12-18 and 20. Therefore, instant claims 21-25, 28-35 and 38 are anticipated by Kasprzak, U.S. Patent No. 4,685,930.

13. Claims 21-25, 28-32, 34-35 and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Berndt et al, U.S. Patent No. 5,942,007.

Art Unit: 1751

Berndt et al, U.S. Patent No. 5,942,007, discloses a dry cleaning method comprising contacting a garment to be cleaned in a vertical combination washer/dryer with a composition comprising 80% by weight of octamethylcyclotetrasiloxane and 20% by weight of decamethylcyclopentasiloxane, per the requirements of instant claims 1-4, 6-10 and 12-18 (see col. 3, lines 6-35 and col. 4, lines 37-46). Therefore, instant claims 21-25, 28-32, 34-35 and 38 are anticipated by Berndt et al, U.S. Patent No. 5,942,007.

14. Claims 21-25, 28-35 and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Berndt et al, U.S. Patent No. 6,063,135.

Berndt et al, U.S. Patent No. 6,063,135, discloses a dry cleaning method comprising contacting a garment to be cleaned in a vertical combination washer/dryer with a composition comprising 30% by weight of 2-ethyl hexyl acetate and 70% by weight of decamethylcyclopentasiloxane, per the requirements of instant claims 1-4, 6-10, 12-18 and 20 (see abstract, col. 6, lines 10-27, and col. 8, lines 3-40). Therefore, instant claims 21-25, 28-35 and 38 are anticipated by Berndt et al, U.S. Patent No. 6,063,135.

15. Claims 21-28, 30-32 and 34-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Madore et al, U.S. Patent No. 5,057,240.

Madore et al, U.S. Patent No. 5,057,240, discloses a liquid laundry detergent comprising a fabric softening agent, a volatile cyclic silicone, and a detergent which may or may not contain water (see col. 2, line 45-col. 3, line 15). Specifically, note col. 7,

Art Unit: 1751

Example III, which discloses a process for treating fabrics in a home laundry process comprising contacting the fabric with a composition comprising a liquid detergent and a cyclic siloxane, per the requirements of the instant invention. Therefore, instant claims 21-28, 30-32 and 34-38 are anticipated by Madore et al, U.S. Patent No. 5,057,240.

### ***Response to Arguments***

16. Applicant's arguments filed August 12, 2003 have been fully considered but they are not persuasive.

Applicant argues that Kasprzak, U.S. Patent No. 4,685,930, Berndt et al, U.S. Patent No. 5,942,007, and Berndt et al, U.S. Patent No. 6,063,135 do not disclose a method of using a wash medium comprising a siloxane in an automatic laundry machine. However, the examiner asserts that these three references do indeed teach this limitation. Specifically, note col. 5, lines 25-34 of Kasprzak, U.S. Patent No. 4,685,930, col. 3, lines 24-57 of Berndt et al, U.S. Patent No. 5,942,007, and col. 8, lines 3-55 of Berndt et al, U.S. Patent No. 6,063,135, which disclose that the fabrics are treated with a cyclic siloxane containing composition in a home laundry machine.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (703) 305-0728. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone



Art Unit: 1751

number for the organization where this application or proceeding is assigned is (703)

872-9310 (Before Final) and (703) 872-9311 (After Final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

BPM

Brian Mruk  
October 14, 2003

*Brian P. Mruk*

Brian P. Mruk  
Patent Examiner  
Tech Center 1700